THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.27000 OF 1998

23.03.2007

M/s Indian Immunologicals,
Gachibowli, Hyderabad, rep., by
its Chief Executive Sri K.V. Balasubramaniam.

….Petitioner

Vs.

1. The Industrial Tribunal-I Chandravihar Buildings,
   M.J. Road, Hyderabad, Labour Dept., rep., by its
   Chairman and another.

….Respondents

THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY

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ORDER:

In this writ petition, the petitioner has questioned the order dated 23.4.1998 passed by the Industrial Tribunal, Hyderabad in I.D.No.29 of 1997 aggrieved by the direction to the extent of granting permission to the 2nd respondent-Union to cross-examine the management witness and examine himself as a witness in the said I.D.

The Government of India, Ministry of Labour, New Delhi, by its order-dated 30.5.1997, under Section 10(1)(d) and 2A of Industrial Disputes Act, referred the following dispute:

> *"Whether the action of the management of Indian Immunologicals, Hyderabad in imposing the penalty of withholding one increment for a period of three years to Shri A.V. Dass, Jr. Technician is legal and justified? If not, to what relief, the workman is entitled?"*

Both parties appeared and filed their pleadings. At the first instance, the Tribunal has considered with regard to the validity of the domestic enquiry conducted by the Management before passing final orders in disciplinary proceedings, in which an increment was ordered to be stopped. The Board of Directors of the Company has passed resolutions on 12.8.1988 and 11.7.1990 authorising certain officers of the company to take disciplinary action and to pass orders of punishment. The second respondent union has participated in the enquiry and refused further to participate on the ground that the

resolutions covered by Ex.M23 and M24 dated 12.8.1988 and 11.7.1990 were not supplied to them. While considering such plea, the Tribunal below by further examining as to whether the notified authority as per the standing orders passed the final orders, has categorically recorded its finding that the workman in the dispute is a Junior Technician and the disciplinary proceedings were initiated and punishment was awarded by the Correct authority and as such, there is no illegality in the domestic enquiry conducted by the management. But, however, it was further ordered permitting the 2nd respondent-union to cross-examine the management witness and also examine himself as a witness in the I.D.

In a case, where it is found that the domestic enquiry conducted is not in accordance with the procedure, a further opportunity can be given to lead evidence. But in the instant case, having recorded the finding that the workman is only a junior technician and the punishment was awarded by the Correct authority and having upheld the validity of the domestic enquiry, it is not open for the Tribunal below to grant permission to the 2nd respondent-union to cross-examine the management witness and to examine himself as a witness in the I.D. Therefore, the said direction is illegal.

In that view of the matter, the order under challenge to the extent of permitting the 2nd respondent-union to cross examine the management witness and to examine himself further before the Tribunal is set aside.

Accordingly, this writ petition is allowed. No costs.

However, inasmuch as the I.D. is of the year 1997, the Tribunal is directed to dispose of the same as expeditiously as possible, within a period of four months from the date of receipt of a copy of this Order.

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Justice R. Subhash Reddy

Dated: 23.3.2007

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